REMARKS

In response to the office action mailed August 4, 2009, Applicant has amended claims 1-35 to remove 35 USC Section 112 indefiniteness problems discovered by the Examiner and noted to Applicant's attorney during a telephone interview held on September 9, 2009. No new matter has been added.

This paper will serve as a response to the Office Action as well as a summary of the telephone interview between the Examiner and Applicant's attorney. Claims 1-35 are pending and stand rejected. Continued examination and allowance of the claims is respectfully requested. The present Office Action has been made final, Applicant respectfully requests the withdrawal of the finality of the Office Action; in the alternative, Applicant requests an Advisory Action in response to these amendments and remarks.

The Office Action has maintained all of the previous rejections; that is claims 1-6, 8-10, 15-21 and 23-35 remain rejected under 35 USC Section 102(b) as being anticipated by Kawanishi (U.S. Patent No. 5,894,111). The Office Action has maintained the rejection of claims 7 as being obvious in view of Kawanishi and claims 11-14 and 22 as being unpatentable over Kawanishi in view of Materna (U.S. Published Patent Application No. US 2002/0084920).

Applicant appreciates the time and patience of Examiner Jyoti Nagpaul during the telephone interview noted above. In that interview Applicant's attorney and Examiner Nagpaul discussed the Kawanishi patent noted above and reached no agreement as to the rejections made in the present Office Action. The Examiner noted that the inclusion of a second weighing balance in claim 1 might be sufficient to overcome the present rejections. Applicant's attorney noted that the single weighing balance, in accordance with the claims, is used to make one or more weighings as needed to establish the dosage required.

At the end of the interview, the Examiner stated that understanding the scope of the claims was hampered by the indefinite manner in which the claims were written. Applicant notes that no such rejection or objection to the indefiniteness of the claims had previously been made and as a result Applicant had previously been unaware that there was confusion as to understanding the scope of the claims. Applicant's attorney appreciates that this has now been brought to his attention and has reviewed the claims

and amended them to more clearly disclose the present invention. It is believed that the claims as now amended are not anticipated by Kawanishi nor made obvious by the combination suggested in the Office Action.

Further, in the Response to Arguments section of the outstanding Office Action, the Examiner has noted that Applicant argues that the gross weight of substance to be dosed partially does not normally correspond to the target weight, but that Applicant does not claim either the target or gross weight and therefore the weight measured by the load cell of Kawanishi is equivalent to the measured dosed substance. Applicant notes that it made this argument with respect to the manner in which Kawanishi performs its determination of quantity. As noted, Kawanishi teaches the use of a load cell to determine part of the weight and then estimates the remaining amount by calculations using specific weight and assumed volume of substance in the containers. This requires that the specific weight of the substance is known. Otherwise, it must be calculated from the part of the weight determined by the load cell and the volume of substance in the different containers. However, it is not always possible to determine an exact specific weight of a substance in this way, because not all substances are homogeneous and for example pastes can contain small air bubbles. In any case, the indirect determination of a weight of a substance by the loop way of the specific weight and the volume is always less exact than the direct weighing of the substance. The approach of Kawanashi is diametrically different to the determination shown in the present invention, where a "dose" is weighed rather than a quantity is determined by means of the specific weight and the volume. In the present invention, as now amended, the entire dose is a weighed dose; this is shown in the device and method claims.

Applicant respectfully restates that as the teachings of Kawanishi do not anticipate the present invention, the addition of a further limitation in claim 7 cannot cause that claim to be obvious in light of Kawanishi. Further, the teachings of Materna add nothing to the teachings of Kawanishi so as to make dependent claims 11-14 and 22 obvious in view of the combination.

Applicant believes that the claims as now amended when considered along with the remarks made in its previous response will clearly show that the cited references neither anticipate nor make obvious the present invention. It is respectfully submitted that

the claims are in condition for allowance. Applicant regrets that the manner in which the claims were drafted and the need for more clarity was first brought to its attention during the interview as its prior response might have been sufficient to show patentability. As no prior Office Action made note of a 35 USC Section 112 problem, and this problem was only noted during the Interview of September 9, 2009, Applicant respectfully requests that the present amendment be considered and that the finality of the Office Action be withdrawn. Applicant has made a sincere effort to place the claims in allowable condition. Continued examination and allowance of the claims is respectfully requested. In the alternative, an Advisory Action is solicited.

Respectfully submitted,

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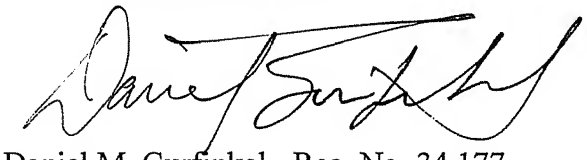

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October 1, 2009

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